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No. 173

In the Supreme Court of the United States

OCTOBER TERM, 1968

RICHARD E. GORMAN, PETITIONER

v.

UNITED STATES OF AMERICA

SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES

After a jury trial, petitioner was convicted of wilfully failing to file individual Federal Income Tax Returns for the years 1959 through 1963 in violation of Section 7203 of the Internal Revenue Code of 1954, and the conviction was affirmed by the Court of Appeals for the Seventh Circuit. 393 F. 2d 209. A petition for a writ of certiorari was filed on June 8, 1968 and the government filed a memorandum in opposition on July 8, 1968. Certiorari was denied on October 14, 1968 (No. 173, this Term).

Because of information received after the denial of certiorari, the Solicitor General submits this further memorandum.

Although the petitioner was never himself the target of electronic surveillance, we have now learned that on one occasion he did participate in a conver-

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sation that was overheard during the course of an electronic surveillance directed at someone else. This conversation was totally unrelated to the prosecution of the petitioner.

We propose to make a full disclosure of the overheard conversation to the district court in accordance with the procedure which this Court prescribes in *Alderman* v. *United States,* No. 133, O.T. 1967, pending on the government's motion to modify. Since the petitioner will have an adequate remedy in the district court, we urge that this Court not delay the issuance of its mandate.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

OCTOBER 1968.

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